

MERCHANT & GOULD P.C.

United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

OPTICAL ELEMENT, SEMICONDUCTOR DEVICE, AND OPTICAL INFORMATION RECORDING DEVICE EMPLOYING THE SAME

The specification of which

a. ☐ is attached hereto

b. ☒ was filed on _____ as application serial no. _____ and was amended on _____ (if applicable) (in the case of a PCT-filed application) described and claimed in international no. PCT/JP01/05822 filed on July 4, 2001 and as amended on December 5, 2001 (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

a. ☐ no such applications have been filed.

b. ☒ such applications have been filed as follows:

| FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119 | | | |
|--|--------------------|--------------------------------------|-------------------------------------|
| COUNTRY | APPLICATION NUMBER | DATE OF FILING (day, month, year) | DATE OF ISSUE (day, month, year) |
| Japan | 2000-203387 | 5 July 2000 | |
| ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S) | | | |
| COUNTRY | APPLICATION NUMBER | DATE OF FILING (day, month, year) | DATE OF ISSUE (day, month, year) |
| | | | |
| | | | |

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

| U.S. APPLICATION NUMBER | DATE OF FILING (day, month, year) | STATUS (patented, pending, abandoned) |
|-------------------------|-----------------------------------|---------------------------------------|
| | | |

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

| U.S. PROVISIONAL APPLICATION NUMBER | DATE OF FILING (Day, Month, Year) |
|-------------------------------------|-----------------------------------|
| | |

I hereby appoint the following attorney(s) or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Albrecht, John W.
 Anderson, Gregg I.
 Ansems, Gregory M.
 Batzli, Brian H.
 Beard, John L.
 Black, Bruce E.
 Blasdel, Thomas L.
 Bogucki, Raymond A.
 Bruess, Steven C.
 Byrne, Linda M.
 Carlson, Alan G.
 Caspers, Philip P.
 Chiapetta, James R.
 Clifford, John A.
 Cochran, William W.
 Daignault, Ronald A.
 Daley, Dennis R.
 Dalglish, Leslie E.
 Daulton, Julie R.
 DeVries Smith, Katherine M.
 DiPietro, Mark J.
 Edell, Robert T.
 Epp Ryan, Sandra
 Funk, Steven R.
 Glance, Robert J.
 Golla, Charles E.
 Gorman, Alan G.
 Gould, John D.
 Gregson, Richard
 Gresens, John J.
 Hamre, Curtis B.
 Hillson, Randall A.
 Holzer, Jr., Richard J.
 Johnston, Scott W.
 Kadievitch, Natalie D.
 Kastelic, Joseph M.
 Kettelberger, Denise
 Knearl, Homer L.
 Kowalchuk, Alan W.
 Kowalchuk, Katherine M.
 Kubota, Glenn M.
 Lacy, Paul E.

Reg. No. 40,481
 Reg. No. 28,828
 Reg. No. 42,264
 Reg. No. 32,960
 Reg. No. 27,612
 Reg. No. 41,622
 Reg. No. 31,329
 Reg. No. 17,426
 Reg. No. 34,130
 Reg. No. 32,404
 Reg. No. 25,959
 Reg. No. 33,227
 Reg. No. 39,634
 Reg. No. 30,247
 Reg. No. 26,652
 Reg. No. 25,968
 Reg. No. 34,994
 Reg. No. 40,579
 Reg. No. 36,414
 Reg. No. 42,157
 Reg. No. 28,707
 Reg. No. 20,187
 Reg. No. 39,667
 Reg. No. 37,830
 Reg. No. 40,620
 Reg. No. 26,896
 Reg. No. 38,472
 Reg. No. 18,223
 Reg. No. 41,804
 Reg. No. 33,112
 Reg. No. 29,165
 Reg. No. 31,838
 Reg. No. 42,668
 Reg. No. 39,721
 Reg. No. 34,196
 Reg. No. 37,160
 Reg. No. 33,924
 Reg. No. 21,197
 Reg. No. 31,535
 Reg. No. 36,848
 Reg. No. 44,197
 Reg. No. 38,946

Larson, James A.
 Lasky, Michael B.
 Liepa, Mara E.
 Lindquist, Timothy A.
 Lynch, David W.
 Marschang, Diane L.
 McDaniel, Karen D.
 McDonald, Daniel W.
 McIntyre, Iain A.
 Mueller, Douglas P.
 Nelson, Albin J.
 Pauly, Daniel M.
 Phillips, John B.
 Plunkett, Theodore
 Pytel, Melissa J.
 Reich, John C.
 Reiland, Earl D.
 Rittmaster, Ted R.
 Schmaltz, David G.
 Schuman, Mark D.
 Schumann, Michael D.
 Scull, Timothy B.
 Sebal, Gregory A.
 Skoog, Mark T.
 Soderberg, Richard
 Sumner, John P.
 Sumners, John S.
 Tellekson, David K.
 Trembath, Jon R.
 Underhill, Albert L.
 Vandeburgh, J. Derek
 Vradenburgh, Anna M.
 Welter, Paul A.
 Wahl, John R.
 Whipps, Brian
 Wickhem, J. Scot
 Williams, Douglas J.
 Witt, Jonelle
 Wood, William J.
 Xu, Min S.

Reg. No. 40,443
 Reg. No. 29,555
 Reg. No. 40,066
 Reg. No. 40,701
 Reg. No. 36,204
 Reg. No. 35,600
 Reg. No. 37,674
 Reg. No. 32,044
 Reg. No. 40,337
 Reg. No. 30,300
 Reg. No. 28,650
 Reg. No. 40,123
 Reg. No. 37,206
 Reg. No. 37,209
 Reg. No. 41,512
 Reg. No. 37,703
 Reg. No. 25,767
 Reg. No. 32,933
 Reg. No. 39,828
 Reg. No. 31,197
 Reg. No. 30,422
 Reg. No. 42,137
 Reg. No. 33,280
 Reg. No. 40,178
 Reg. No. P- 43,352
 Reg. No. 29,114
 Reg. No. 24,216
 Reg. No. 32,314
 Reg. No. 38,344
 Reg. No. 27,403
 Reg. No. 32,179
 Reg. No. 39,868
 Reg. No. 20,890
 Reg. No. 33,044
 Reg. No. 43,261
 Reg. No. 41,376
 Reg. No. 27,054
 Reg. No. 41,980
 Reg. No. 42,236
 Reg. No. 39,536

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant & Gould P.C. to the contrary.

Please direct all correspondence in this case to Merchant & Gould P.C. at the address indicated below:

Merchant & Gould P.C.
 P.O. Box 2903
 Minneapolis, MN 55402-0903

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

| | | | | | |
|---|---|----------------------------|--|-----------------------------------|--|
| 1-00 | 2 | Full Name Of Inventor | Family Name NAKANISHI | First Given Name Naoki | Second Given Name |
| 0 | | Residence & Citizenship | City Shiga JPX | State or Foreign Country Japan | Country of Citizenship Japan |
| 1 | | Post Office Address | Post Office Address 151-36, Kobirai, Ritto-cho, Kurita-gun | | State & Zip Code/Country Shiga 520-3034/JAPAN |
| Signature of Inventor 201: Naoki Nakanishi | | | | Date: February 15, 2002 | |
| 2-00 | 2 | Full Name Of Inventor | Family Name TAKASUKA | First Given Name Shoichi | Second Given Name |
| 0 | | Residence & Citizenship | City Osaka JPX | State or Foreign Country Japan | Country of Citizenship Japan |
| 2 | | Post Office Address | Post Office Address 1-1-406, Morinomiya, Joto-ku, Osaka-shi | | State & Zip Code/Country Osaka 536-0025/JAPAN |
| Signature of Inventor 202: Shoichi Takasuka | | | | Date: February 20, 2002 | |
| 3-00 | 2 | Full Name Of Inventor | Family Name IJIMA | First Given Name Shinichi | Second Given Name |
| 0 | | Residence & Citizenship | City Osaka JPX | State or Foreign Country Japan | Country of Citizenship Japan |
| 3 | | Post Office Address | Post Office Address 1-9-1-201, Miyata-cho, Takatsuki-shi | | State & Zip Code/Country Osaka 569-1142/JAPAN |
| Signature of Inventor 203: Shinichi Ijima | | | | Date: February 19, 2002 | |
| 4-00 | 2 | Full Name Of Inventor | Family Name NAKANISHI | First Given Name Hideyuki | Second Given Name |
| 0 | | Residence & Citizenship | City Shiga JPX | State or Foreign Country Japan | Country of Citizenship Japan |
| 4 | | Post Office Address | Post Office Address 1-6-3, Mano, Otsu-shi | | State & Zip Code/Country Shiga 520-0232/JAPAN |
| Signature of Inventor 204: Hideyuki Nakanishi | | | | Date: February 15, 2002 | |

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;

or

- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.